

SUBJECT: Borough Theatre, Abergavenny

MEETING: Cabinet

DATE: 28th February 2018

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To seek Cabinet approval to accept the surrender of the lease between Monmouthshire County Council and the Borough Theatre Trust dated October 2013 which transferred a leasehold interest of Abergavenny Theatre to the newly formed Borough Theatre Trust. In so doing, to recognise that the Management Agreement entered into by both parties is brought to an end and that Abergavenny Theatre will return to the ownership and control of Monmouthshire County Council. The Borough Theatre Trust is in agreement with this course of action and will cease to operate and seek to de-register itself on conclusion of this hand-over.
- 1.2 The Council will review all operations of Abergavenny Theatre in the following six months and bring forward an options appraisal as a subsequent report to Cabinet for the medium term future of the Theatre. No options will be brought forward for consideration that exceed resources available within the approved Medium Term Financial Plan.

2. RECOMMENDATIONS:

- 2.1 To agree to terminate forthwith the Council's lease and consequently its Management Agreement with the Borough Theatre Trust for Abergavenny Theatre.
- 2.2 In agreeing 2.1, to absolve in absolute terms all Borough Theatre trustees of any outstanding repairs and maintenance liabilities for the building. These are estimated to be £119,611 and will fall to the Council if a viable model for the Theatre beyond the initial 6 month period is arrived at.
- 2.3 The Council agrees to undertake a TUPE transfer of six existing Theatre employees on their existing terms and conditions. In doing so Cabinet accepts that it enters into a risk of needing to meet severance costs for these individuals if a viable ongoing model for the Theatre is not found.
- 2.4 To agree that existing resources from the Council's Economy and Enterprise team be deployed to provide leadership and management support for the six month period in which the future viability of the theatre is being considered.

3. KEY ISSUES:

- 3.1 In October 2013, management and operation of the Abergavenny Borough Theatre transferred from the Council to an external and independent board of trustees, in the form of a Company Limited by Guarantee. Since when the theatre has been operating as a charitable trust - the Borough Theatre Trust (BTT) (No. 1151373). Two documents manage the BTT's occupation, a Management Agreement and a 30-year lease. The lease requires BTT to invest in and repair the interior of the theatre, including fixtures and fittings, as part of continually building its own future sustainable business plan.
- 3.2 For the initial three years of the Management Agreement, BTT received an annual grant of £163,707 from the Council; an additional £28k from Arts Council for Wales, as well as income from performances, all of which has supported maintaining the existing structure and scope of operation. Subsequently the Council subsidy tapered down in accordance with the Management Agreement and notification of the adjustment was sent in September 2016. This confirmed a realisation on the part of the Trust that the ongoing viability of the Theatre could not be guaranteed and a dialogue commenced with the Council.
- 3.3 An interim schedule of dilapidations was undertaken in July 2017, which identified outstanding repairs of £119,611.
- 3.4 In the event that the Trustees interest is surrendered, the Council is obliged via the Management Agreement to undertake a TUPE transfer of existing theatre staff, which amounts to an average monthly cost of £9,512. On approval of this decision and in advance of the proposed surrender, formal consultation with employees will be undertaken. Informal dialogue has been maintained with employees throughout this period

4 OPTIONS APPRAISAL

Option	Benefits	Risks	Comments
Do nothing	<ul style="list-style-type: none"> No residual liabilities for MCC 	<ul style="list-style-type: none"> The Trustees are unable to fund the outstanding repairs and the theatre will subsequently have to close Injury or loss arising from the condition of the theatre Unable to host performances so loss of income and reputational damage The Trust becomes insolvent and the 6 jobs are lost. 	The theatre provides a valuable cultural base for Abergavenny and the current condition is already resulting in negative feedback, loss of volunteers and inability to provide performers appropriate facilities.
Surrender the legal agreements and take back the Theatre whilst options are appraised	<ul style="list-style-type: none"> MCC can work with the existing staff, volunteers and partners to determine a financially viable future for the venue. 	<ul style="list-style-type: none"> MCC will assume liability for the outstanding repairs and maintenance. 	This option provides "breathing space" for the venue, so that the service can be reviewed and solutions

Option	Benefits	Risks	Comments
	<ul style="list-style-type: none"> • Existing bookings can be honoured – so no penalty charges incurred or return of sold ticket income • Potential access to grant funding from the Arts Council for Wales to assist in undertaking outstanding repairs and in the refurbishment of the fittings. • The theatre space can be reviewed as part of the wider refurbishment project to create a home for the hub 	<ul style="list-style-type: none"> • The review concludes that the theatre is not viable without a subsidy in excess of the existing which will result in the closure of the theatre • The uncertainty around the long term position of the theatre will result in loss of trade, staff and volunteers. 	determined to develop and sustain a higher rate of performances, ticket sales and an improved environment for theatre users. There is a risk that the theatre is unsustainable in the longer term.
Position the BTT within wider proposals for ADM	<ul style="list-style-type: none"> • Situates BTT alongside other similar cultural attractions where resources, ideas and staff could be shared • Offers opportunity to generate new revenues and build relationships with external funders • Certainty of Arts Council funding 	<ul style="list-style-type: none"> • Does not truly assess or address the viability issue which is real problem to solve • Could be a sticking plaster option if the core issues are not addressed 	Recognise could be option in future – but is dependent upon a case being made for future viability, sustainability and affordability.

5. EVALUATION CRITERIA

See Appendix 1

6. REASONS:

- 6.1 The theatre was transferred to the existing Trust on the basis that, with three year fixed full funding support from the council, it would be able to access additional income sources and grant funding that would improve the trading position of the theatre and its offer to users and increasingly see the Trust become less dependent of the council. The trustees have been unable to achieve this.
- 6.2 Should Cabinet agree to the surrender of the lease, the council will undertake a full review to establish the future viability of the theatre including existing and potential operating models. The proposal will however result in the Council assuming financial and operating liabilities including the repairing liability that has already arisen.
- 6.3 Such an appraisal cannot be carried out lightly. The Theatre provides a year round programme of performances to suit all genres, and it is a valued asset by the local community and those from further afield. During 2016/17 the theatre received a footfall of 25,032 people.

- 6.4 There are currently two vacant front of house posts: Theatre Manager and Front of House Supervisor. It is suggested that interim management support is injected into the Theatre to provide a sustainable interim position whilst future feasibility is established.
- 6.5 The location of the theatre within the Town Hall provides the Council with the opportunity to consider its future in a wider context and maximise any benefits that the proposed refurbishment of the Town Hall might be able to create in terms of improved accessibility, increased footfall and improved energy efficiencies.

7. RESOURCE IMPLICATIONS:

- 7.1 In-house cover will be provided during the six-month period in which the Council's Economy and Enterprise team be deployed, specifically to provide leadership and management support and simultaneously establish if there is a valid and viable business case for its continued future operation.
- 7.2 Council will accept back a repair and maintenance liability of £119,611.
- 7.3 In the event that a viable model for the future of the theatre cannot be determined, the council is accepting a severance cost liability attaching to all of the current theatre employees.
- 7.4 A full report and financial summary on the long term viability of the theatre will be produced and presented to Council in autumn 2018.

8. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING):

The purpose of the proposal for the return of management responsibility of the Borough Theatre to MCC, is to test and assess the viability of the Borough Theatre.

Safeguarding will be an integral part of all aspects of the Borough Theatre, and ensure that leadership and capacity impacts positively on those who access the Theatre. The directorate will ensure that there are effective and consistent safeguarding arrangements in place. The impact will be regularly updated and reviewed to ensure ongoing fitness for purpose.

9. CONSULTEES:

SLT
Cabinet
Borough Theatre Trust
Monitoring Officer & Head of Legal Services
S151 Officer

10. BACKGROUND PAPERS:

Appendix 1 Evaluation Criteria
Appendix 2 Future Generations Evaluation

11. AUTHOR: Kellie Beirne, Deputy Chief Executive

12. CONTACT DETAILS:

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Title of Report:	INTERIM RETURN OF ABERGAVENNY BOROUGH THEATRE TO MCC MANAGEMENT
Date decision was made:	28th February 2018
Report Author:	Kellie Beirne

What will happen as a result of this decision being approved by Cabinet or Council?
An opportunity for an in-depth analysis be completed on the viability and sustainability of the Borough Theatre and to make recommendations on the future options available.
Enabling an interim period of return to MCC, will ensure that the Theatre will be able to continue running and offering the range of performances to the community of Abergavenny and further afield.
<i>12 month appraisal</i>
<i>Was the desired outcome achieved? What has changed as a result of the decision? Have things improved overall as a result of the decision being taken?</i>

What benchmarks and/or criteria will you use to determine whether the decision has been successfully implemented?
A detailed options appraisal be carried out on systems; processes; staffing; resources; performances and footfall to establish long term sustainability and viability.
To engage with customers and partners on ‘What Matters’ and to include findings in the final report.
<i>12 month appraisal</i>
<i>Paint a picture of what has happened since the decision was implemented. Give an overview of how you fared against the criteria. What worked well, what didn’t work well. The reasons why you might not have achieved the desired level of outcome. Detail the positive outcomes as a direct result of the decision. If something didn’t work, why didn’t it work and how has that effected implementation.</i>

What is the estimate cost of implementing this decision or, if the decision is designed to save money, what is the proposed saving that the decision will achieve?
Initial support will be provided from in-house teams within Economy and Development who will establish the long term viability and sustainability of the theatre.
<i>12 month appraisal</i>
<i>Give an overview of whether the decision was implemented within the budget set out in the report or whether the desired amount of savings was realised. If not, give a brief overview of the reasons why and what the actual costs/savings were.</i>

<i>Any other comments</i>
